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| Adopted | Rejected |
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COMMITTEE REPORT

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| YES: | 10 |
| NO: | 0 |

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1223, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS
- 3 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2005]:
- 5 **Chapter 15. Methamphetamine Lab Reporting and Quarantine**
- 6 **Sec. 1. As used in this chapter, "certified inspector" means a**
- 7 **person certified under IC 13-14-1-15 to inspect and clean property**
- 8 **polluted by a contaminant (as defined in IC 13-11-2-42).**
- 9 **Sec. 2. As used in this chapter, "law enforcement agency" has**
- 10 **the meaning set forth in IC 10-11-8-2.**
- 11 **Sec. 3. As used in this chapter, "methamphetamine laboratory"**
- 12 **means a location or facility that:**
- 13 **(1) is being used;**
- 14 **(2) was intended to be used; or**
- 15 **(3) has been used;**
- 16 **to produce methamphetamine.**

1 **Sec. 4. A law enforcement agency that terminates the operation**
2 **of a methamphetamine laboratory shall report the existence and**
3 **location of the methamphetamine laboratory to the:**

- 4 (1) state police department;
5 (2) local fire department; and
6 (3) county health department or multiple county health
7 departments, if applicable;

8 **on a form and in the manner prescribed by guidelines adopted by**
9 **the superintendent of the state police department under**
10 **IC 10-11-2-31.**

11 **Sec. 5. A law enforcement agency that discovers a child less than**
12 **fourteen (14) years of age at a methamphetamine laboratory shall**
13 **notify the division of family and children.**

14 **Sec. 6. (a) A law enforcement agency that discovers a**
15 **methamphetamine laboratory may quarantine the property, or**
16 **part of the property, on which the methamphetamine laboratory**
17 **is located, if the law enforcement agency believes that the property**
18 **is polluted by a contaminant (as defined in IC 13-11-2-42).**

19 **(b) A law enforcement agency that quarantines property under**
20 **this section shall:**

- 21 (1) post signs declaring that the property has been
22 quarantined; and
23 (2) to the extent possible, notify all parties, including a
24 lienholder, having an interest in the quarantined property.

25 **Sec. 7. A person having an interest in property that has been**
26 **quarantined under section 6 of this chapter may, after notifying the**
27 **law enforcement agency that quarantined the property, have the**
28 **property inspected or cleaned by a certified inspector.**

29 **Sec. 8. A law enforcement agency that has quarantined a**
30 **property shall remove the quarantine when a certified inspector**
31 **files a written report with the law enforcement agency:**

- 32 (1) describing the results of the certified inspector's
33 inspection;
34 (2) detailing cleanup undertaken by the certified inspector, if
35 any; and
36 (3) declaring that the property is safe for human use.

37 **Sec. 9. (a) A person having an interest in property that has been**
38 **quarantined under section 6 of this chapter may file a petition for**

an order to remove the quarantine with a circuit or superior court in the county in which the property is located. The person shall serve a copy of the petition on the prosecuting attorney.

(b) The court shall conduct a hearing on the quarantined property. At the hearing, the person having the interest in the property has the burden of proving that the property:

(1) was wrongly quarantined; or

(2) has been properly cleaned and is safe for human use.

(c) If the court finds that the property:

(1) was wrongly quarantined; or

(2) has been properly cleaned and is safe for human use;

the court shall order the quarantine removed.

SECTION 2. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The superintendent shall adopt:

(1) guidelines; and

(2) a reporting form or a specified electronic format, or both;

for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-4.

(b) The guidelines adopted under this section must require a law enforcement agency to report the existence of a methamphetamine laboratory to the:

(1) department;

(2) local fire department; and

(3) county health department or multiple county health department, if applicable;

on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;

(2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;

(3) must require the department to maintain reports filed under IC 5-2-15-4 in a manner permitting an accurate assessment of:

- 1 **(A) the number of methamphetamine laboratories located**
- 2 **in Indiana in a specified period;**
- 3 **(B) the geographical dispersal of methamphetamine**
- 4 **laboratories located in Indiana in a specified period; and**
- 5 **(C) any other information that the superintendent**
- 6 **determines to be relevant; and**
- 7 **(4) must require a law enforcement agency to report any other**
- 8 **information that the superintendent determines to be relevant.**

9 SECTION 3. IC 10-11-8-4 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent,
 11 with input from other law enforcement agencies, may develop and
 12 maintain a **meth watch** program to inform retailers about illicit
 13 methamphetamine production, distribution, and use in Indiana.

14 SECTION 4. IC 13-11-2-42 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. "Contaminant", for
 16 purposes of environmental management laws, means any solid,
 17 semi-solid, liquid, or gaseous matter, or any odor, radioactive material,
 18 pollutant (as defined by the Federal Water Pollution Control Act (33
 19 U.S.C. 1251 et seq.), as in effect on January 1, 1989), hazardous waste
 20 (as defined in the federal Solid Waste Disposal Act (42 U.S.C. 6901 et
 21 seq.), as in effect on January 1, 1989), any constituent of a hazardous
 22 waste, or any combination of the items described in this section, from
 23 whatever source, that:

- 24 (1) is injurious to human health, plant or animal life, or property;
- 25 (2) interferes unreasonably with the enjoyment of life or property;
- 26 or
- 27 (3) otherwise violates:
 - 28 (A) environmental management laws; or
 - 29 (B) rules adopted under environmental management laws.

30 **The term includes chemicals used in the illegal manufacture of a**
 31 **controlled substance or an immediate precursor of a controlled**
 32 **substance, and waste produced from the illegal manufacture of a**
 33 **controlled substance or an immediate precursor of the controlled**
 34 **substance.**

35 SECTION 4. IC 13-14-1-15 IS ADDED TO THE INDIANA CODE
 36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2005]: Sec. 15. (a) **The department shall maintain a list of**
 38 **persons certified to inspect and clean property that is polluted by**

1 a contaminant. The list may specifically note persons with
 2 particular expertise or experience in the inspection or cleanup of
 3 property contaminated by chemicals used in the illegal
 4 manufacture of a controlled substance or by waste produced from
 5 the illegal manufacture of a controlled substance.

6 (b) The department may specify by rule that a person who meets
 7 certain qualifications prescribed by the department is a person
 8 certified to inspect and clean property that is polluted by a
 9 contaminant.

10 (c) The department may adopt rules under IC 4-22-2:

11 (1) to implement this section; and

12 (2) concerning the inspection and remediation of quarantined
 13 property.

14 SECTION 6. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2005]: **Sec. 8. The board shall make available to a law
 17 enforcement agency records concerning an Indiana resident's mail
 18 order purchase of a drug containing ephedrine or pseudoephedrine
 19 from a nonresident pharmacy in accordance with state and federal
 20 law.**

21 SECTION 7. IC 35-33-8-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
 23 chapter, "bail bond" means a bond executed by a person who has been
 24 arrested for the commission of an offense, for the purpose of ensuring:

25 (1) the person's appearance at the appropriate legal proceeding;

26 (2) another person's physical safety; or

27 (3) the safety of the community, **including the safety of the
 28 community from the person's pattern of illegal use or
 29 manufacture of a controlled substance.**

30 SECTION 8. IC 35-33-8-3.2 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) A court may
 32 admit a defendant to bail and impose any of the following conditions
 33 to assure the defendant's appearance at any stage of the legal
 34 proceedings, or, upon a showing of clear and convincing evidence that
 35 the defendant poses a risk of physical danger to another person or the
 36 community, to assure the public's physical safety, **including the
 37 public's safety from the person's pattern of illegal use or
 38 manufacture of a controlled substance:**

- 1 (1) Require the defendant to:
 - 2 (A) execute a bail bond with sufficient solvent sureties;
 - 3 (B) deposit cash or securities in an amount equal to the bail;
 - 4 (C) execute a bond secured by real estate in the county, where
 - 5 thirty-three hundredths (0.33) of the true tax value less
 - 6 encumbrances is at least equal to the amount of the bail; or
 - 7 (D) post a real estate bond.
- 8 (2) Require the defendant to execute a bail bond by depositing
- 9 cash or securities with the clerk of the court in an amount not less
- 10 than ten percent (10%) of the bail. If the defendant is convicted,
- 11 the court may retain all or a part of the cash or securities to pay
- 12 fines, costs, fees, and restitution, if ordered by the court. A portion
- 13 of the deposit, not to exceed ten percent (10%) of the monetary
- 14 value of the deposit or fifty dollars (\$50), whichever is the lesser
- 15 amount, may be retained as an administrative fee. The clerk shall
- 16 also retain from the deposit under this subdivision the following:
 - 17 (A) Fines, costs, fees, and restitution as ordered by the court.
 - 18 (B) Publicly paid costs of representation that shall be disposed
 - 19 of in accordance with subsection (b).
 - 20 (C) In the event of the posting of a real estate bond, the bond
 - 21 shall be used only to insure the presence of the defendant at
 - 22 any stage of the legal proceedings, but shall not be foreclosed
 - 23 for the payment of fines, costs, fees, or restitution.
- 24 The individual posting bail for the defendant or the defendant
- 25 admitted to bail under this subdivision must be notified by the
- 26 sheriff, court, or clerk that the defendant's deposit may be forfeited
- 27 under section 7 of this chapter or retained under subsection (b).
- 28 (3) Impose reasonable restrictions on the activities, movements,
- 29 associations, and residence of the defendant during the period of
- 30 release.
- 31 (4) Require the defendant to refrain from any direct or indirect
- 32 contact with an individual.
- 33 (5) Place the defendant under the reasonable supervision of a
- 34 probation officer or other appropriate public official.
- 35 (6) Release the defendant into the care of a qualified person or
- 36 organization responsible for supervising the defendant and
- 37 assisting the defendant in appearing in court. The supervisor shall
- 38 maintain reasonable contact with the defendant in order to assist

the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require the defendant to enroll in a drug treatment program if the court determines that the defendant has a pattern of repeated illegal use or manufacture of a controlled substance.

~~(8)~~ **(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk."

Page 2, delete lines 1 through 33.

- 1 Page 3, line 16, delete "Except as provided in subsection (e), a" and
- 2 insert "A".
- 3 Page 4, between lines 14 and 15, begin a new line block indented
- 4 and insert:
- 5 **"(29) Gamma-butyrolactone.**
- 6 **(30) White phosphorus.**
- 7 **(31) Hypophosphorous acid and its salts.**
- 8 **(32) Acetic anhydride.**
- 9 **(33) Benzyl chloride.**
- 10 **(34) Ammonium nitrate.**
- 11 **(35) Ammonium sulfate.**
- 12 **(36) Hydrogen peroxide.**
- 13 **(37) Thionyl chloride.**
- 14 **(38) Ethyl acetate.**
- 15 **(39) Pseudoephedrine hydrochloride."**
- 16 Page 5, line 11, after "to" delete ":".
- 17 Page 5, line 11, reset in roman "a:".
- 18 Page 5, line 12, delete "a".
- 19 Page 5, line 15, reset in roman "or".
- 20 Page 5, line 16, after "(2)" delete "a".
- 21 Page 5, line 27, delete "; or" and insert ".".
- 22 Page 5, delete lines 28 through 29.
- 23 Page 6, delete lines 17 through 19.
- 24 Re-number all SECTIONS consecutively.
- (Reference is to HB 1223 as introduced.)

and when so amended that said bill do pass.

Representative Ulmer